

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Violet Rabon,)	
)	C/A No.: 4:08-cv-3442-GRA
Plaintiff,)	
)	
v.)	ORDER
)	(Written Opinion)
Michael J. Astrue, Commissioner,)	
)	
Defendant.)	
_____)	

Plaintiff's attorney petitions this Court for an award of attorney's fees in the above-captioned case pursuant to the Social Security Act, 42 U.S.C. § 406(b). Plaintiff's attorney seeks \$22,892.63 in attorney's fees, which amounts to twenty-five percent of the past-due benefits withheld by the Social Security Administration for attorney's fees. The government does not object to the motion.

In the 1985 amendments to the Equal Access to Justice Act ("the EAJA"), Congress specified that, if a claimant's attorney received attorney's fees under both the EAJA and section 406(b), the claimant's attorney must "refun[d] to the claimant the amount of the smaller fee." *Gisbrecht v. Barnhart*, 535 U.S. 789, 795–98 (2002) (citing Pub.L. 99-80 § 3, 99 Stat. 186 (Aug. 5, 1985)). Here, Plaintiff's attorney was twice awarded fees under the EAJA. On September 15, 2003, Plaintiff's attorney was awarded fees in the amount of \$3,531.25, and on June 2, 2010, Plaintiff's attorney was awarded \$5,500. These fees were not paid out of the Plaintiff's award, but they are used to reduce the amount of fees paid by the Plaintiff.

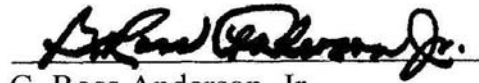
Plaintiff's attorney now requests fees in the amount of \$22,892.63. In turn, she will return the previously awarded EAJA fee amount of \$9,031.25 (\$3,531.25 plus \$5,500) to the Plaintiff, resulting in a net fee of \$13, 861.38 for the Plaintiff's attorney.

The government filed a response on September 14, 2010, indicating there is no opposition to the award. The government agrees that it is reasonable in light of the contingency fee agreement between Plaintiff and her attorney.

After a review of the record, Plaintiff's attorney's petition, and Defendant's Response, this Court finds that an award of attorney's fees in the amount requested is appropriate and reasonable. *See Gisbrecht*, 535 U.S. at 807.

IT IS THEREFORE ORDERED that Defendant pay Plaintiff's attorney twenty-two thousand eight hundred ninety-two dollars and sixty-three cents (\$22,892.63) out of Plaintiff's award.

IT IS SO ORDERED.


G. Ross Anderson, Jr.
Senior United States District Judge

October 18, 2010
Anderson, South Carolina